

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**MICHAEL W. FRERET, JR.**

**PLAINTIFF**

**V.**

**Civil No. 1:21-cv-19-HSO-RHWR**

**KILOLO KIJAKAZI<sup>1</sup>**  
*Acting Commissioner of Social Security*

**DEFENDANT**

**ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND  
RECOMMENDATION [13] AND DISMISSING CASE**

BEFORE THE COURT is United States Magistrate Judge Robert H.

Walker's Report and Recommendation [13], which recommends that the decision of the Commissioner of Social Security be affirmed and that Plaintiff Michael W. Freret, Jr.'s claims be dismissed. R. & R. [13] at 1. No objections have been filed, and the time for doing so has passed. After due consideration of the Report and Recommendation [13], the record, and relevant legal authority, the Court finds that the Magistrate Judge's Report and Recommendation [13] should be adopted as the finding of this Court, and that Plaintiff Michael W. Freret, Jr.'s claims should be dismissed with prejudice.

## I. BACKGROUND

On February 12, 2019, Plaintiff Michael W. Freret, Jr. (“Plaintiff” or “Freret”)

<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Federal Rule of Civil Procedure 25(d), Kilolo Kijakazi is automatically substituted in place of Andrew Saul as Defendant in this action. 42 U.S.C. § 405(g).

filed an application with the Social Security Administration for Disability Insurance Benefits under Title II of the Social Security Act, 42 U.S.C. § 423(d)(1)(A). Compl. [1] at 1. An Administrative Law Judge (“ALJ”) denied his application after making a determination that he was not disabled. *Id.* On January 15, 2021, Plaintiff filed his Complaint [1] in this Court against the Commissioner of Social Security, seeking judicial review of the Commissioner’s decision. *Id.*

Plaintiff asserts that the ALJ should be reversed, because he did not describe how the opinion of one of Plaintiff’s pain management doctors was inconsistent with other medical evidence in the record. Br. [9] at 7-8. On June 1, 2022, the Magistrate Judge entered a Report and Recommendation [13] recommending that the decision of the Commissioner be affirmed, because contrary to Plaintiff’s assertion, the ALJ did in fact articulate how other medical evidence and opinions of record were inconsistent with the doctor’s opinion. R. & R. [13] at 1. Neither party has filed an objection to the Report and Recommendation, and the time for doing so has passed. L.U. Civ. R. 72(a)(3).

## II. DISCUSSION

Where no party has objected to the Magistrate Judge’s report and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). When there are no objections, the Court applies the “clearly

erroneous, abuse of discretion and contrary to law” standard of review to the report and recommendation. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted this required review, the Court concludes that the Report and Recommendation [13] is neither clearly erroneous nor contrary to law. The Court will adopt the Magistrate Judge’s Report and Recommendation [13] as the opinion of this Court. The Court finds that dismissal with prejudice is appropriate.

### III. CONCLUSION

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that, the Report and Recommendation [13] of United States Magistrate Judge Robert H. Walker entered in this case on June 1, 2022, is **ADOPTED** in its entirety as the finding of this Court.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that, this civil action is **DISMISSED WITH PREJUDICE**. A separate judgment will be entered in accordance with this Order as required by Federal Rule of Civil Procedure 58.

**SO ORDERED AND ADJUDGED**, this the 22nd day of June, 2022.

*s/ Halil Suleyman Ozerden*

HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE